

## Exhibit C



## Transcript of **STEPHANIE RENEE SMITH**

**Date:** March 26, 2014

**Case:** GILMORE v. HOLDER

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1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE EASTERN DISTRICT OF VIRGINIA  
3                   Alexandria Division  
4       - - - - -x  
5       EDWARD L. GILMORE,                   :  
6                   Plaintiff,                   :  
7                   v.                   : Civil Action No.  
8       ERIC HOLDER, in his official       : 1:13-cv-789  
9       capacity as Attorney General       :  
10      of the United States,               :  
11                   Defendant.               :  
12      - - - - -x  
13  
14               CONTAINS CONFIDENTIAL ATTORNEYS' EYES ONLY PORTIONS  
15  
16                   Deposition of STEPHANIE RENEE SMITH  
17                   Alexandria, Virginia  
18                   Wednesday, March 26, 2014  
19                   10:13 a.m.  
20       Job No.: 55436  
21       Pages: 1 - 113  
22       Reported By: Lee Bursten, RMR, CRR

CONFIDENTIAL DEPOSITION OF STEPHANIE RENEE SMITH  
CONDUCTED ON WEDNESDAY, MARCH 26, 2014

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1 Deposition of STEPHANIE RENEE SMITH, held  
2 at the offices of:

3

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UNITED STATES ATTORNEY'S OFFICE

6

2100 Jamieson Avenue

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Alexandria, Virginia 22314

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(703) 299-3700

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Pursuant to Notice, before Lee Bursten,  
Registered Merit Reporter, Certified Realtime  
Reporter, and Notary Public in and for the District  
of Columbia, who officiated in administering the oath  
to the witness.

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A P P E A R A N C E S

ON BEHALF OF PLAINTIFF:

JEFFREY T. HANTSON, ESQUIRE  
J. GREGORY BUTLER, ESQUIRE  
WILMER CUTLER PICKERING HALE  
AND DORR LLP  
1875 Pennsylvania Avenue, NW  
Washington, DC 20006  
(202) 663-6000

ON BEHALF OF DEFENDANT:

AYANA N. FREE, ESQUIRE  
UNITED STATES ATTORNEY'S OFFICE  
2100 Jamieson Avenue  
Alexandria, Virginia 22314  
(703) 299-3700

ALSO PRESENT:

JASON LAESER, ESQUIRE  
Drug Enforcement Administration

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C O N T E N T S

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(Attached to transcript.)

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1 P R O C E E D I N G S

2 STEPHANIE RENEE SMITH

3 having been duly sworn, testified as follows:

4 EXAMINATION BY COUNSEL FOR PLAINTIFF

5 BY MR. HANTSON:

6 Q Would you please state and spell your name  
7 for the record.

8 A Stephanie Renee Smith. S-T-E-P-H-A-N-I-E,  
9 R-E-N-E-E, S-M-I-T-H.

10 Q And Ms. Smith, again, thank you very much  
11 for taking the time to come here today on this cold  
12 spring, I'm told, day. My name is Jeff Hantson. I'm  
13 an attorney for Mr. Gilmore, who is the plaintiff in  
14 this case. And with me is Greg Butler, one of my  
15 colleagues. He's also an attorney for Mr. Gilmore.

16 Have you ever been deposed before?

17 A No.

18 Q Have you ever testified in a trial before?

19 A No. I had to think about it. I served on  
20 jury duty, but I didn't have to speak.

21 Q Sure. Well, thank you very much for your  
22 service then. Jury duty is not always the most

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1 testimony.

2 A No.

3 BY MR. HANTSON:

4 Q I'm sorry. Please correct me. I was just  
5 trying to make sure I understood. Under what  
6 circumstances would someone be scheduling an  
7 appointment if they weren't interested in entering  
8 the process?

9 A To vent. Which we get a lot of.

10 Q And God bless you for it.

11 A Oftentimes, to just know what their rights  
12 are, if they had any rights.

13 Q After scheduling that interview, what  
14 happens next?

15 A After deciding on a date?

16 Q Yes.

17 A The person would show up at the time of the  
18 interview. But what I always do, I have documents,  
19 if they are entering the process and if I know  
20 they're entering the process, because oftentimes they  
21 will tell you on the phone, you know, if I know that  
22 this is going to be a complaint, then I will prepare



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1 the forms that they would need to sign, forms that  
2 have to be signed prior to having the actual  
3 interview.

4 The forms put them in the process.

5 Q And stepping back to the phone call to  
6 schedule the interview, would you note the date of  
7 that phone call anywhere?

8 MS. FREE: Objection, form.

9 A I would note on my calendar the date that  
10 they want the appointment. That's if they are going  
11 to -- if we're going to meet. If someone calls and  
12 they're just venting or they're just asking about  
13 guidance, I would make a notification that I  
14 received, because it's me spending time with them on  
15 the phone.

16 And all of that is part of my duties and my  
17 accomplishments. So I would record, especially if  
18 I've spent a significant amount of time on the phone  
19 with them, I would record it on a calendar pad.

20 BY MR. HANTSON:

21 Q Okay. This calendar pad that you just  
22 mentioned, this was a hard copy calendar?

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1 I remember that. Not -- I don't remember any  
2 particulars.

3 Q Do you remember how Mr. Gilmore's claim  
4 initially came to you?

5 MS. FREE: Objection, form.

6 A No. No.

7 BY MR. HANTSON:

8 Q Do you remember if Mr. Gilmore called you  
9 on the phone to schedule an appointment?

10 A It was either a phone call or an email  
11 message. I'm not sure which. But there was contact  
12 prior to him just showing up.

13 Q Do you remember approximately how long  
14 before the appointment he contacted you?

15 A No, I don't.

16 Q Do you remember if you prepared any of the  
17 forms prior to Mr. Gilmore's initial appointment?

18 A I prepared the forms -- I prepared the  
19 counseling forms prior to him coming to the office.

20 Q Do you remember when you reported the  
21 conflict?

22 A The same day. The same day I had the

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1 vent, there's no need for me to seek their names. So  
2 that's pretty much just a way of capturing -- just  
3 capturing the fact that I spoke with a lot of people  
4 throughout the year, I cannot tell you the name of  
5 every person who I spoke with, but it was daily  
6 contact with many people.

7 Q And in the following sentence you said, "I  
8 did capture my time speaking with them at the end of  
9 my list." Do you see that?

10 A Yes.

11 Q And if you look at the last line of your  
12 list, it says "Provided guidance to several other HR  
13 and DEA" -- it's on the same page, I'm sorry, it goes  
14 over. Do you see where it says, "Provided guidance  
15 to several other HR and DEA employees through fiscal  
16 year 2008"?

17 A Yes.

18 Q Is that what you referred to when you said  
19 that you captured your time "speaking with them at  
20 the end of my list"?

21 A Yes.

22 Q So is it correct this list doesn't

1 represent all the calls you received?

2 A Not hardly.

3 Q But is it correct that it does capture the  
4 appointments you had?

5 A Yes. Or people who I spent a significant  
6 amount of time with, even on the phone. It may not  
7 have been an appointment where they actually came  
8 into the office or I made an appointment for them to  
9 call me at another time, but if I -- like for  
10 instance, a counseling contact could last for three  
11 hours.

12 Somebody is so distraught about something  
13 that they want to vent, and they're just -- so that's  
14 a contact. That's not counseling, because they  
15 haven't entered the process. So yes, so I would  
16 definitely have to capture that, because I had to  
17 spend a great portion of my day speaking to somebody.

18 Q In looking at the first page, just a few  
19 lines above where we had seen the "Served as  
20 counseling coordinator," it says "EEO counseling,  
21 Edward L. Gilmore, Security Programs, December 13th  
22 2007."

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1 BY MR. HANTSON:

2 Q The court reporter has just handed you  
3 what's been marked as Exhibit 3. If you can see, on  
4 the first page it says "Declaration of Stephanie  
5 Smith" below a caption for this case.

6 A Mm-hmm.

7 Q Is this the declaration you spoke about  
8 earlier?

9 A Yes.

10 Q This time we'll use the page numbers on the  
11 top of the page. You see it says page 1 of 12.

12 A Yes.

13 Q So if you could turn to page 4, is that  
14 your signature on that page?

15 A Yes.

16 Q And in paragraph 16, it says, "The Exhibit  
17 1 documents were included in Mr. Gilmore's EEO  
18 counselor's report and would have been part of the  
19 file transferred to the agency handling this  
20 complaint."

21 Do you see that?

22 A I see that.

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1 Q And what do you mean by that?

2 A The files -- the documents he signed when I  
3 had my interview with him, the rights and  
4 responsibilities, the ADR election, all of the stuff  
5 that he signed when I had the initial interview with  
6 him, all of those documents are a part of -- they  
7 become a part of the case file.

8 He gets a copy, but they also go in the  
9 report of counseling at some point -- not report of  
10 counseling -- report of investigation, once an  
11 investigative file has been made. So documents such  
12 as this would have at some point been put in in a  
13 correspondence file.

14 Everything that's in a correspondence file  
15 is sent to the investigator once the case has been  
16 assigned. So everything that we have in our  
17 correspondence file is sent to the investigator, and  
18 all of that becomes part of the investigative report,  
19 along with, you know, other documentation that's  
20 gathered during the course of the investigation.

21 So yes, the documents he signed during the  
22 informal stage, yes, they would be a part of a report

1 of counseling.

2 Q Let's turn to page 7. Page 7 of 12 on the  
3 top. And the title says, "Alternative Dispute  
4 Resolution (ADR) Election Form." Do you see that?

5 A Yes.

6 Q Is this the ADR form you were describing  
7 earlier?

8 A Yes.

9 Q On the bottom half of the page is a section  
10 that says "Brief description of claims of  
11 discrimination." Do you see that?

12 A Yes.

13 Q And is that the summary of Mr. Gilmore's  
14 claims that you mentioned earlier you included on  
15 this form?

16 A Yes.

17 Q Now, did you fill this information out in  
18 advance of the meeting or at the meeting?

19 A This information was filled out prior to  
20 him coming into the office, so it would have been  
21 filled out before the meeting took place.

22 Q And would you have filled it out

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1 person?

2 A Right.

3 Q How do you get the dates for this  
4 accomplishments list?

5 A As far as the actual entries for each?

6 Q Yes.

7 A When individuals call, my notepad -- I use  
8 my notepad as like a scribble board. And I just jot  
9 down -- you know, it's easy if it's somebody calling  
10 within DEA because I can just see their names.

11 I'll jot down their names and sometimes  
12 record the time that they called, but certainly their  
13 names and the date they call, because that's the  
14 only -- because I get so many calls throughout the  
15 day that I have to have something, and I don't want  
16 to use a whole bunch of yellow stickies because they  
17 can actually get away from me.

18 So I use my notepad as a scribble pad to  
19 record my work, when I'm accomplishing stuff.

20 Q What if any correlation is there between  
21 your notepad and this list of accomplishments?

22 A I take the information from my notepad to



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1 create this. That's why I keep -- that's why I  
2 keep -- you know, I don't just tear it off and rip it  
3 up after each one is over, because I want to be able  
4 to go back each month and record what has happened  
5 throughout the year.

6 Q So this list of accomplishments reflects  
7 the information that was on your notepad?

8 A Exactly. And I don't know if you can tell,  
9 it's also in -- what do you call it, chronological  
10 order, because I usually start from January or  
11 whatever, the end of the fiscal year, and flip back.  
12 So yes.

13 (This concludes the Confidential Attorneys'  
14 Eyes Only portion.)

15 Q Ms. Smith, you testified earlier about  
16 remembering that Mr. Gilmore was a conflict case,  
17 correct?

18 A Yes.

19 Q And you testified earlier that in a  
20 conflict case, cases are transferred from the DEA's  
21 EEO office to the Department of Justice, who then  
22 reassigns the case, correct?

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1 Q But you've never spoken with her about this  
2 case?

3 A I've never spoken with her at all.

4 Q About any of your EEO complaints?

5 A About anything. I've never even exchanged  
6 pleasantries, hello or anything.

7 MS. FREE: No further questions.

8 MR. HANTSON: We don't have any further  
9 questions.

10 MS. FREE: She's going to read and sign.

11 THE REPORTER: Ms. Free, you're going to  
12 order a copy of the transcript?

13 MS. FREE: Yes, please, electronic.

14 (Signature having not been waived, the  
15 deposition of STEPHANIE RENEE SMITH was concluded at  
16 1:13 p.m.)  
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ACKNOWLEDGEMENT OF DEPONENT

I, STEPHANIE RENEE SMITH, do hereby  
acknowledge that I have read and examined the  
foregoing testimony, and the same is a true, correct  
and complete transcription of the testimony given by  
me, and any corrections appear on the attached Errata  
sheet signed by me.

(DATE)

(SIGNATURE)

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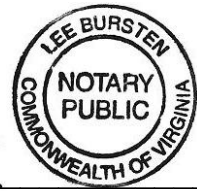
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CERTIFICATE OF SHORTHAND REPORTER-NOTARY PUBLIC

I, Lee Bursten, the officer before whom the foregoing deposition was taken, do hereby certify that the foregoing transcript is a true and correct record of the testimony given; that said testimony was taken by me stenographically and thereafter reduced to typewriting under my direction; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 7th day of April, 2014.

My commission expires September 30, 2017.

LEE BURSTEN

NOTARY PUBLIC IN AND FOR

THE COMMONWEALTH OF VIRGINIA

Notary Registration Number 7255135